

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
NO. 4:14-CR-9-BO

UNITED STATES OF AMERICA :
:
v. :
:
ELLIS LEON GIBBS, JR. :

PRELIMINARY ORDER OF FORFEITURE

WHEREAS, pursuant to the entry of a Memorandum of Plea Agreement by the defendant on January 23, 2017, whereby the defendant agreed to the forfeiture, the Court finds that the following property is hereby forfeitable pursuant to 16 U.S.C. § 3374, made applicable to this proceeding by virtue of 28 U.S.C. § 2461(c), to wit:

- a. The vessel 'LADY SAMAIRA,' a commercial stern trawler, USCG documentation number 1060577, NOAA permit number 410570, owned by Lady Samaira, Inc., 200 Main Street, Swan Quarter, NC 27885;
- b. All gear, electronics, and other harvesting and sorting equipment on the foregoing vessels; and
- c. All fish harvested illegally, specifically pounds of fish as described in Count 4 of the Criminal Indictment.

WHEREAS, by virtue of said Memorandum of Plea Agreement and the defendant's agreement therein, the United States is now

entitled to possession of said property pursuant to 16 U.S.C. § 3374 and Fed. R. Crim. P. 32.2(b)(3).

It is hereby ORDERED, ADJUDGED and DECREED:

1. That based upon the Memorandum of Plea Agreement as to the defendant, Ellis Leon Gibbs, Jr., the United States is hereby authorized to seize the above-stated property, and it is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of 21 U.S.C. § 853(n), as allowed by Fed. R. Crim. P. 32.2(b)(3). In accordance with Fed. R. Crim. P. 32.2(b)(4)(A), this Order is now final as to the defendant.

2. That upon sentencing and issuance of the Judgment and Commitment Order, the Clerk of Court is directed to incorporate a reference to this Preliminary Order of Forfeiture in the applicable section of the Judgment, as required by Fed. R. Crim. P. 32.2(b)(4)(B).

3. That pursuant to 21 U.S.C. § 853(n), the United States shall publish notice of this Order and of its intent to dispose of the property in such manner as the Attorney General or the Secretary of Treasury directs, by publishing and sending notice in the same manner as in civil forfeiture cases, as provided in Supplemental Rule G(4). Any person other than the defendant, having or claiming any legal interest in the subject property must file a petition with the Court within 30 days of the

publication of notice or of receipt of actual notice, whichever is earlier.

The petition must be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the subject property, and must include any additional facts supporting the petitioner's claim and the relief sought.

4. That upon adjudication of all third party interests this Court will enter a Final Order of Forfeiture pursuant to 16 U.S.C. § 3374 and 28 U.S.C. § 2461(c), as required by Fed. R. Crim. P. 32.2(c)(2).

SO ORDERED. This 10 day of August, 2017.

Terrence Boyle
TERRENCE W. BOYLE
United States District Judge